

~~[R277. Education, Administration.~~

~~R277-514. Board Procedures: Sanctions for Educator Misconduct.~~

~~R277-514-1. Definitions.~~

~~———— In addition to terms defined in Section 53A-6-103, the following definitions apply:~~

~~———— A. “Allegation of misconduct” means a written or oral report alleging that an educator has engaged in unprofessional, criminal, or incompetent conduct; is unfit for duty; has lost licensure in another state due to revocation or suspension, or through voluntary surrender or lapse of a license in the face of an allegation of misconduct; or has committed some other violation of standards of ethical conduct, performance, or professional competence.~~

~~———— B. “Board” means the Utah State Board of Education.~~

~~———— C. “Commission” means the Utah Professional Practices Advisory Commission.~~

~~———— D. “Educator” means a person who currently holds a license, held a license at the time of an alleged offense, is an applicant for a license, or is a person in training to obtain a license.~~

~~———— E. “License” means an authorization issued by the Board which permits the holder to serve in a professional capacity in a unit of the public education system or an accredited private school.~~

~~———— F. “Party” means the complainant or the respondent.~~

~~———— G. “Recommended disposition” means a recommendation for resolution of a complaint.~~

~~———— H. “Serve” or “service,” as used to refer to the provision of notice to a person, means delivery of a written document or its contents to the person or persons in question. Delivery may be made in person, by mail to the individual’s last known address or by other means reasonably calculated, under all of the circumstances, to apprise the interested person or persons to the extent reasonably practical or practicable of the information contained in the document.~~

~~———— I. “Superintendent” means the State Superintendent of Public Instruction.~~

~~R277-514-2. Authority and Purpose.~~

~~———— A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public schools in the Board, Section 53A-6-405 relating to withdrawal or denial of licensure by the Board for cause, Section 53A-6-307 in which the Board retains the power to issue or revoke licenses, hold hearings or take other disciplinary action as warranted, and Subsection 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.~~

~~———— B. The purpose of this rule is to provide an appeals process for recommendations and decisions made by the Commission, including a review by the Superintendent; and to specify the procedures under which the Board may take action against an educator’s license for misconduct.~~

~~R277-514-3. Administrative Review by Superintendent.~~

~~———— A. If an administrative action is taken by the Commission which results in a recommendation to the Board for:~~

~~———— (1) suspension of an educator’s license for two years or more, or~~

~~———— (2) revocation of an educator’s license,~~

~~———— B. Either party may request review by the Superintendent within 15 days from the~~

~~date that the Commission sends written notice to both parties that the Commission has made its administrative recommendation.~~

~~—— C. The request for review shall consist of the following:~~

~~—— (1) name, position, and address of appellant;~~

~~—— (2) issue(s) being appealed; and~~

~~—— (3) signature of appellant.~~

~~—— D. If the Superintendent finds:~~

~~—— (1) that procedural errors have occurred which violated fairness or due process issues, the Superintendent shall refer the case back to the Commission for reconsideration as to whether or not the findings, conclusions or decisions of the Commission are supported by a preponderance of the evidence, or direct the Executive Secretary for the Commission to take specific administrative action. After reconsideration is completed, the Superintendent shall notify all parties to the case, and refer the matter to the Board, if necessary, for final disposition consistent with this rule.~~

~~R277-514-4. Board Procedures.~~

~~—— A. Except as provided under Subsection R277-514-4(E), if the Board receives an allegation of misconduct by an educator, the allegation shall be forwarded to the Executive Secretary for the Commission for action under R686-100.~~

~~—— B. Following completion of procedures provided in R686-100, if the Commission recommends that an educator's license be suspended for any period of time or revoked, the recommendation shall be forwarded to the Board for action.~~

~~—— C. Upon receiving a case from the Commission, the members of the Board shall review a summary of the case and may:~~

~~—— (1) accept the recommendation of the Commission; or~~

~~—— (2) review the case file, findings, conclusions, and recommended disposition of the case.~~

~~—— (a) If the Board finds no serious procedural errors, that the findings and conclusions are reasonable and supported by a preponderance of the evidence, and that the recommended disposition presents a reasonable resolution of the case, then the Board shall approve the findings and recommended disposition.~~

~~—— (b) If the Board finds serious procedural errors have violated the fundamental fairness of the process, then the Board shall refer the case back to the Commission to correct the errors.~~

~~—— (c) If the Board determines that the findings or conclusions are not supported by a preponderance of the evidence, or that the recommended disposition does not present a reasonable resolution of the case, then the Board may refer the case back to the Commission for further action or may, in the alternative, prepare other findings, conclusions, or disposition.~~

~~—— (d) If the Board finds that there is insufficient information in the case file to complete its work, the Board may direct the parties to appear and present additional evidence or clarification.~~

~~—— (e) If the Board finds it advisable to do so, the Board may initiate investigations or hearings regarding the initial or continued licensure of an individual and take disciplinary action upon its own volition without referring a given case to the Commission.~~

~~—— D. The Board shall issue a written order regarding its action which contains its conclusions and its disposition of the case, and direct the State Superintendent to serve~~

a copy of the written order upon the parties.

~~—— E. All documents used by the Board in reaching its decision, and a copy of the Board's final order, shall be made part of the permanent case file.~~

~~—— F. The decision of the Board is final.~~

~~R277-514-5. Notification Requirements and Procedures.~~

~~—— A. An educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report that belief to the school principal, district superintendent, or the Commission. A school administrator receiving such a report shall immediately submit the information to the Commission if the employee is licensed as an educator.~~

~~—— B. A local superintendent or charter school director shall notify the Commission if an educator is determined, pursuant to an administrative or judicial action, to have had disciplinary action taken for or to be guilty of:~~

~~—— (1) unprofessional conduct or professional incompetence which results in suspension for more than one week or termination, or which otherwise warrants Commission review; or~~

~~—— (2) immoral behavior.~~

~~—— C. Failure of an educator to comply with Subsection A or B may constitute unprofessional conduct.~~

~~—— D. The State Office of Education shall notify the educator's employer of any final action taken by the Board; and shall notify all Utah local education agencies (LEAs) and the NASDTEC Educator Information Clearinghouse whenever a license is revoked or suspended, or if an educator surrenders a license or allows it to lapse in the face of allegations of misconduct rather than accept an opportunity to defend against the allegations.~~

~~KEY: disciplinary actions, professional competency, educator licensure~~

~~Date of Enactment or Last Substantive Amendment: October 9, 2012~~

~~Notice of Continuation: August 14, 2012~~

~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-405; 53A-6-307; 53A-1-401(3)]~~